

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41(a)(2)(C) FOR A
WARRANT AUTHORIZING THE SEARCH AND SEIZURE OF BUCCAL DNA
SAMPLES FROM KELLEY FINNIGAN (DOB: 9/24/1998)**

I, John W. Forte, state as follows:

INTRODUCTION

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), United States Department of Justice, and have been so employed since 2002. I am currently assigned to the ATF Boston Field Division, Manchester, New Hampshire Field Office, and charged with investigating criminal offenses involving the federal firearms, explosives, arson, alcohol, and tobacco diversion laws.

2. I have received extensive training in the federal firearms laws and am familiar with ATF's regulations regarding the purchase and sales of firearms. I have successfully completed the Criminal Investigations Training Program and the ATF New Professional Training (NPT) at the Federal Law Enforcement Training Center in Glynco, GA. During the NPT program, I learned how to investigate criminal offenses involving the federal firearms, explosives, arson, alcohol, and tobacco diversion laws. I have received advanced training with regard to conducting complex firearms trafficking investigations. I have participated in dozens of investigations relating to the illegal acquisition and sales of firearms, the illegal manufacture and possession of National Firearms Act weapons and previously have sworn out numerous affidavits in support of search warrants and arrest warrants in firearms cases. I have been certified as an Interstate Nexus Expert, that is, an expert in establishing whether particular firearms or ammunition have traveled in interstate commerce thereby satisfying the interstate commerce element of many federal firearms crimes.

3. I submit this affidavit in support of an application for a search warrant to search and seize buccal DNA samples from Kelley FINNIGAN (DOB [REDACTED], hereinafter referred to as "FINNIGAN"), who is currently residing at [REDACTED] in Wilmot, New Hampshire, as evidence in the ongoing investigation of Corey DONOVAN's violating Title 18, United States Code, Section 922(g)(1), possession of a firearm by a convicted felon.

4. The information contained in this affidavit is based on my personal involvement in this investigation, my training and experience, my review of documents, and information provided to me by other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause for the requested warrant.

LEGAL BACKGROUND

5. Title 18, United States Code, Section 922(g)(1), in relevant part:

It shall be unlawful for any person—

(3) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year...;

(9) ...to ship or transport in interstate or foreign commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

FACTS ESTABLISHING PROBABLE CAUSE

6. On July 3, 2001, Corey DONOVAN plead guilty to two felony counts of Burglary in the Belknap Superior Court and was sentenced to two to four years incarceration with some time suspended.

7. On March 10, 2009, DONOVAN was sentenced to one hundred fifty-four months incarceration and five years of supervised release for DONOVAN's felony convictions in the United States District Court of New Hampshire. DONOVAN was convicted on Conspiracy to Commit Bank Robbery, Bank Robbery, and Possession of a Firearm in furtherance of a Crime of Violence.

8. On June 19, 2019, DONOVAN was reported passed out at the wheel of a green 1987 Jeep Wrangler, with New Hampshire registration 457 1990, in the parking lot of an Irving gas station in Andover, NH. The vehicle was registered to DONOVAN. Members of the Andover, Danbury and Hill Police Departments responded to the call. DONOVAN was found in possession of methamphetamine and a subsequent state search warrant of the vehicle was conducted. A locked large plastic gun case was located inside the vehicle and a separate state search warrant was obtained to gain access to the large plastic gun case. The large plastic firearms case contained a rifle, a revolver, a suspected silencer made from a CO2 Canister, a shotgun, and assorted ammunition. DONOVAN was charged in Merrimack County Superior court on the possession of Methamphetamine and Felon in Possession of a Firearm. DONOVAN was indicted in the United States District Court for New Hampshire for Felon in Possession of a Firearm. In a subsequent trial at the Merrimack Superior Court, DONOVAN was acquitted of the Felon in Possession of a Dangerous Weapon charge, but found guilty of the possession of the methamphetamine. Due to the acquittal in state court on the Felon in Possession of a Dangerous Weapon charge, DONOVAN's federal charge was dismissed.

9. On March 11, 2021, this affiant received information regarding Corey DONOVAN being in possession of firearms in violation of federal law and his current term of supervised release with Federal Probation and Pretrial Services. Based in part on that

information and following other investigative steps, I applied for and was granted a federal search warrant on the residence of Corey DONOVAN and Kelley FINNIGAN located at [REDACTED] in Wilmot, New Hampshire on March 24, 2021. On March 26, 2021, this affiant along with other members of law enforcement executed the search warrant.

10. The property referred to as [REDACTED] in Wilmot is an eight acre property that is listed as parcel 6-2 on the map 10 of the Town of Wilmot tax maps. The property is listed as being owned by Vivian Hodgdon and Shanah Hodgdon. According to information obtained through the 911 database, the main house of the property has been listed as [REDACTED] the garage/apartment is listed as [REDACTED] and the third structure at the rear of the property is listed as [REDACTED]. Although individually designated for 911 purposes, numbers 29, 31, and 33 are all collectively considered the property at [REDACTED].

11. During the execution of the federal search warrant, ammunition and a military style metal ammunition container were observed, in plain view, in two separate vehicles on the property. One of the vehicles was DONOVAN's green 1987 Jeep Wrangler, with New Hampshire registration 457 1990. This affiant requested and was granted an additional federal search warrant to search the green 1987 Jeep Wrangler, with New Hampshire registration 457 1990, registered to DONOVAN, along with four other vehicles located on the property.

12. Investigators subsequently searched the green 1987 Jeep Wrangler, with New Hampshire registration 457 1990, registered to DONOVAN and located a bandolier of 20 gauge shotgun ammunition in the center console. Investigators also located a loaded Mossberg, model 500, 20 gauge shotgun, Serial number V1051663 with an aftermarket flashlight fore-end, a sling, and a shoulder stock ammunition holder found inside DONOVAN's green 1987 Jeep Wrangler

attached to the roll bar/soft-top support. The shotgun was loaded with six rounds (two rounds Brenneke and four rounds Federal/ATK) of 20 gauge ammunition and had an additional four rounds of 20 gauge ammunition (one round Federal/ATK, one round Huntgo and two rounds of Brenneke) loaded in the shoulder stock ammunition holder on the Mossberg shotgun.

13. On April 13, 2021, this affiant completed an interstate nexus examination of the above firearm and ammunition. This affiant determined that they have all travelled in interstate or foreign commerce.

14. On March 31, 2021, ATF Special Agent James Martin answered an incoming call on the ATF Manchester, NH Field Office main line and spoke with an individual, who identified herself as Kelley FINNIGAN of [REDACTED] Wilmot, NH. FINNIGAN advised S/A Martin that her property had been seized and she wanted to inquire how to have the item returned.

15. S/A Martin asked FINNIGAN if she could provide any details about the item, or items, or about the seizure. FINNIGAN asked S/A Martin to hold on. After several seconds, FINNIGAN said the item was a 20 gauge shotgun. FINNIGAN also said she may be looking for an "Officer John". S/A Martin asked if FINNIGAN could provide the manufacturer information or any other details. Again, FINNIGAN paused again for several seconds. FINNIGAN then said she would have to look at the paperwork.

16. S/A Martin reviewed the caller identification option on the phone and observed that the caller information showed the call came from Kelley Finnigan [REDACTED]-4237. The duration of the call was one minute and fifty-seven seconds.

17. This affiant had previously received information from Federal Probation and Pretrial Services Officer Timothy Merna on March 19, 2021, which showed that FINNIGAN's

phone number was [REDACTED] 4237, the same phone number that called the ATF Manchester Field Office on March 31, 2021 and was memorialized in S/A Martin's report of investigation.

18. On April 11, 2021, Officer Merna sent S/A Forte a video that he received from DONOVAN on that same day, via FINNIGAN's cell phone. The video consisted of DONOVAN self-administering an oral toxicology test. During the video DONOVAN spoke to an individual, who is not in view of the camera and is believed to be filming the event. DONOVAN addressed the individual as "Kelley". DONOVAN asked "Kelley" if she feels safe without her shotgun and "Kelley" responded in the negative. "Kelley" is suspected to be FINNIGAN.

19. On May 17, 2021, a federal grand jury indicted DONOVAN with violating 18 U.S.C. § 922(g)(1) based on his possession of the shotgun and ammunition recovered during the search warrants on March 26, 2021.

20. In anticipation of trial on that indictment, this affiant requested the ATF Forensic Science Laboratory analyze the Mossberg shotgun for potential DNA evidence. According to the ATF Forensic Science Laboratory personnel, preliminary analysis of the samples taken from the shotgun are believed to possess an identifiable profile. Samples are now required for comparison to see if the recovered DNA is DONOVAN's, FINNIGAN's, or neither of theirs.

21. Due to where the Mossberg, model 500, 20 gauge shotgun, Serial number V1051663 was located in DONOVAN's green 1987 Jeep Wrangler and that FINNIGAN has made two possible claims to the firearm, this affiant is requesting the court grant this DNA search warrant for comparison samples from both DONOVAN and FINNIGAN.

V. BUCCAL SWAB REQUEST

22. Based on the information above, I am requesting a warrant to obtain buccal DNA

samples from FINNIGAN. FINNIGAN is represented by counsel in this investigation. This affiant will first request FINNIGAN's counsel for her cooperation in obtaining the buccal DNA samples.

23. Based on my training and experience, I am aware that to obtain a comparative DNA sample from a subject, I need to use a buccal swab to collect a sample from the inside cheek area of the subject's mouth. This procedure is minimally invasive and does not cause any harm to the subject. After obtaining the DNA samples from FINNIGAN, I will submit the sample to the ATF Forensic Science Laboratory - Washington for analysis and comparison with the recovered samples discussed above.

CONCLUSION

24. I submit that there is probable cause to believe that the requested DNA samples will provide evidence in the investigation of Corey DONOVAN's violation of Title 18, United States Code, Section 922(g)(1), possession of a firearm by a convicted felon.

Respectfully submitted,

/s/ John Forte

John Forte
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

The affiant appeared before me by telephonic conference on this date pursuant to Fed. R. Crim. P. 4.1 and affirmed under oath the content of this affidavit and application.

Date: **Sep 28, 2021**

Time: **10:07 AM, Sep 28, 2021**

Andrea K. Johnstone



Hon. Andrea Johnstone
United States Magistrate Judge